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Emergency Tax Laws OF SOUTH DAKOTA

Sixteenth Session of the Legislature 1919

RELATING TO TAXING OF REAL ESTATE MORTGAGES
RELATING TO ASSESSMENT OF PERSONAL PROPERTY
AMENDING CHAPTER 55, LAWS OF SPECIAL SESSION
1918 RELATING TO MORATORIUM
RELATING TO BANK STOCK
RELATING TO ASSESSORS
RELATING TO AGRICULTURE STATISTICS
RELATING TO ASSESSMENT AND TAXATION OF
MONEYS AND CREDITS

Issued by
STATE TAX COMMISSION
Pierre, South Dakota

HUGH SMITH, Chairman
H. L. EVELAND H. C. PRESTON
A. C. BERNAU, Secretary

(S. B. 30)

RELATING TO TAXING OF REAL ESTATE MORTGAGES.

AN ACT Entitled, An Act to Provide for the Payment of a Registry Tax Before Filing and Recording Real Estate Mortgages for Record, Providing for Exemptions from Ad Valorem Tax on Recorded Mortgages on Real Estate and the Indebtedness Thereby Secured, and Providing for a Procedure for Collecting Such Recording Tax, Prescribing Penalties, and Repealing Certain Existing Laws in Contravention Thereto, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. The words real estate mortgage as used herein shall be understood to include every species of conveyance intended to secure the payment of money by lien upon real estate. Any contract for the sale of real estate in which title is retained in the vendor for the purpose of enforcing the payment of the balance due shall be deemed a mortgage upon real property. If an indebtedness is secured by both real and personal property, said mortgage shall be deemed to be a mortgage on real property. Any contract or agreement by which the indebtedness secured by a mortgage is increased or added to shall be deemed a mortgage on real property, and shall be taxable as such upon the amount of such increase or addition. Any agreement to extend a mortgage upon real estate is an instrument creating a lien and is therefore a mortgage on real property.

Section 2. All mortgages of real property situated within this state which are hereby taxed for the privilege of recording the same, and the debts and obligations which they secure, together with the paper writings evincing the same, shall be exempt from all other taxes by the state or any other taxing district therein on and after the filing and recording of said mortgage.

Section 3. No mortgage of real property situated within this state shall be exempt, and no person, firm or corporation owning any debt or obligation secured by mortgage of real property situated within this state shall be exempt from the registry tax imposed hereby by reason of anything contained in any other statute, or by reason of non-residence within this state.

Section 4. A registry tax of ten cents on each one hundred dollars, or major fraction thereof, when such mortgage is to run for one year or less, and an additional ten cents per one hundred dollars or major fraction thereof for each year or fraction of a year that such mortgage shall run in excess of one year, is hereby imposed on each principal debt or obligation which is dated on or after the taking effect of this act, or under any contingency may be secured on or after the said date of the execution thereof by mortgage on real property, situated within this state, recorded on or after the taking effect of this act, and shall be collected and paid as hereinafter provided. Provided, that no greater tax than fifty cents per one hundred dollars shall be imposed on any mortgage.

Section 5. The registry tax imposed shall be paid to and collected by the register of deeds of the county where such mortgage is first presented for record, in the following manner; before said mortgage is filed for record or recorded by the register of deeds, it shall be presented to said register of deeds of said county, who shall as one of his official duties compute and collect the registry tax due thereon as provided in this Act, and he shall certify on said mortgage the amount secured thereby and the amount of tax received by him; such certificate shall be recorded by the

register of deeds as a part of the record of said mortgage. If said mortgage is given wholly or partly as an indemnity the mortgagee or owner thereof shall attach thereto an affidavit showing the greatest amount for which it can under any circumstances become security and the registry tax shall be paid upon that amount, and no greater sum can be collected on such mortgage. When a mortgage is made to indemnify the mortgagee as surety, or to secure performance by the mortgagor of a contract which does not require the payment of a specific sum of money, then the said register of deeds shall certify on said mortgage that no tax is due, and such certificate shall be recorded by the register of deeds as part of the record of said mortgage. For a wilful misstatement of the amount for which said mortgage can, in any event, become security, said mortgagee or the owner of said mortgage shall be deemed to have subjected himself to the crime of perjury and the penalties imposed therefor.

Section 6. If subsequent to the recording of a mortgage on which all taxes, if any, accrued hereunder have been paid, a supplemental instrument or mortgage is recorded for the purpose of correcting or perfecting a recorded mortgage, or pursuant to some provision or covenant therein, or an additional mortgage is recorded imposing the lien thereof upon property not originally covered by or not described in such recorded primary mortgage for the purpose of securing the principal indebtedness or obligation which under any contingency may be secured by such recorded primary mortgage, such additional instrument or mortgage shall not be subject to taxation under this Act, unless it creates or secures a new or further indebtedness or obligation other than the principal indebtedness or obligation secured by or which under any contingency may be secured by the recorded primary mortgage, in which case a registry tax is imposed on such new or further indebtedness or obligation as heretofore provided in Section 4 of this Act, and shall be paid to the register of deeds before such instrument or additional mortgage is recorded. If no tax is due under the provisions of this section, the register of deeds shall so certify on said mortgage which certificate shall be recorded as a part thereof.

Section 7. If the mortgage shall cover and describe real property situated partly within and partly without this state such registry tax shall be imposed upon such portion of the whole debt secured thereby as the value of the real estate therein described situate in this state bears to the value of the whole of the real estate described therein, and such value shall be determined by the Tax Commission upon application of the mortgagee or the owner of said mortgage. When the Tax Commission has determined the amount of tax due on said mortgage, it shall issue its certificate accordingly, duly signed, and attested by the secretary of said Commission, which certificate shall be attached to the said mortgage and presented to the said register of deeds, and he shall collect the registry tax thereon and attach his certificate of payment to the mortgage in the manner hereinbefore provided, which shall entitle the said mortgage to be recorded.

Section 8. In case of mortgages made in trust to secure payment of bonds or obligations issued or to be issued thereafter, if only a partial amount of the indebtedness has been advanced thereon at the time of presentation for record, such mortgage shall at the end thereof, contain a sworn statement of the amounts advanced thereon and secured thereby, and the registry tax herein provided shall be computed on that basis. When any further amount is advanced thereon or becomes secured thereby, the mortgagee or owner thereof shall immediately present to the said register of deeds and file with him a statement of the amount about to be further advanced or become further secured, and the registry tax on such amount shall thereupon become due and payable on such amount, and it shall be paid in the same manner as the original tax thereon as hereinbefore provided. If such additional tax is not paid as required by

this section such trust mortgage and evidence of indebtedness, bonds or securities secured thereby shall be unenforceable until said registry tax is paid, and such additional tax shall draw interest at the rate of one per cent per month from the date when the same becomes due. No trust mortgage shall be discharged until the trustee or the party whose duty it is to discharge the same, shall have made affidavit and attached the same to the discharge or satisfaction thereof, which shall be recorded with the same, that all registry taxes for which the mortgage is liable have been paid. Any person making a false affidavit under this section shall be liable to prosecution for perjury, and the penalties therefor.

Section 9. No mortgage of real property shall be recorded by the register of deeds unless the certificate is attached thereto as hereinbefore required to the effect that the registry tax has been paid, or that no registry tax is due thereon. No mortgage of real property which is subject to the registry taxes imposed as hereinbefore provided shall be released, discharged of record or received in evidence in any action or proceeding, nor shall an assignment of or agreement extending any such mortgage be recorded, unless the registry taxes imposed thereon as hereinbefore provided shall have been paid. No judgment or final order in any action or proceeding shall be made for the foreclosure or enforcement of a mortgage which is subject to the registry taxes imposed, or of any debt or obligation secured by any such mortgage unless such taxes shall have been paid as hereinbefore provided.

Section 10. The register of deeds shall keep a mortgage recording tax book to be provided by the county, and which shall be a part of the records of his office, in which shall be entered each and every registry mortgage tax received by him as such, and shall within three days after the expiration of each calendar month, and also at the end of his term of office, file with the county auditor a statement, under oath, showing the registry taxes which he has received as such officer since the date of his last report, or the beginning of his term of office, and shall also within three days after the expiration of each calendar month deposit with the county treasurer the total amount of such taxes. Any register of deeds who shall omit to collect the taxes as provided in this Act, or shall fail to keep a record of the same, or to make a correct statement thereof to the county treasurer, or to pay over the said taxes to said county treasurer with intent to evade the provisions of this section shall be deemed guilty of a felony.

Section 11. It shall be the duty of the county treasurer receiving the taxes to issue to the register of deeds a receipt therefor, and thirty-three and one-third per cent of the taxes so received shall be paid into the State Treasury upon the warrant of the State Auditor, which amount shall belong to and be a part of the general revenue of the state; the County Treasurer shall retain sixty-six and two-thirds per cent of such taxes and shall pay one-half of this amount into the general fund of the county, and apportion the other half to the school districts of said county according to assessed valuation of such school districts as last certified by County Auditor.

Section 12. The owner and holder of any real estate mortgage made and recorded prior to the taking effect of this act may pay the Registry Tax upon the amount of the debt unpaid and secured by the mortgage at the time of such payment and for the unexpired time the mortgage has to run, by presenting to the Register of Deeds, an affidavit stating the amount of the unpaid portion of said mortgage and the time the same has to run. The Register of Deeds shall note on the margin of the mortgage record where said mortgage is recorded, and upon the mortgage, the date and amount of such payment; thereafter such mortgage debt shall not be otherwise taxed.

Section 13. All Acts and parts of Act in conflict herewith are hereby repealed.

Section 14. Whereas, this act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist and this act shall take effect on and after April first 1919.

Approved March 13th, 1919.

(S. B. 40)

RELATING TO ASSESSMENT OF PERSONAL PROPERTY.

AN ACT Entitled, An Act to Provide the Time for Listing and Assessing Personal Property, and the Time for Determining the Value Thereof. Providing the Manner of Determining Whether Such Property Has Been Assessed in Another State or Taxing District Within This State for the Current Year. Providing the Method of Listing and Assessing Live Stock Found Ranging or Grazing, and Defining the Words "Range" or "Ranging." Providing the Board of County Commissioners May Fix the Place for Listing Personal Property in Questions of Doubt Between Several Places in the County, and in Case of Doubt Between Counties the Same to be Fixed by the Tax Commission. Providing County Auditors Shall List Live Stock on Failure of Assessor to List Same, and the Manner of Assessing the Same by County Auditor. Repealing All Acts and Parts of Acts Inconsistent Thereto, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. All personal property subject to taxation shall be listed and assessed annually during the months of May and June, but the value of such property is to be determined according to its value on the first day of May preceding the assessment. Provided, that if the person whose duty it is to list such property can show by duly authenticated certificate that the property, or any part thereof, has been lawfully listed and assessed in any other taxing district in this state for the current year, then the assessor shall omit such property. Provided, further, that if any person moving into this state from another state or territory between the first day of May and the last day of June of the current year, he shall list his personal property in the taxing district in which he resides in this state, unless he can show by duly authenticated certificate that prior to his removal into this state that the property, or any part thereof has been lawfully listed and assessed and that he is held for the tax of the current year in another state or territory.

Section 2. All live stock brought into this state during the months of May and June, inclusive, for the purpose of feeding and grazing shall be listed and assessed for the current year in any taxing district in which during said months they are found feeding and grazing. Provided, that if it shall be made to appear by duly authenticated certificate that said live stock, or any part thereof, has been lawfully listed and assessed in any other state or territory, or any other taxing district in this state, then the same shall be omitted.

Section 3. The words "range" or "ranging" as applied to this act means, an extensive tract of land for grazing, roaming herds of live stock which are permitted to roam or graze at large, or in the charge of a herder and as distinguished from an established ranch or ranches within the county, town or district in which live stock ordinarily and usually ranges and feeds, and at which ranch or ranches the general operation of herding and feeding such stock is conducted, and at which the herder or foreman of such live stock ordinarily has headquarters while in the discharge of his duties, and at which said stock is ordinarily and usually rendezvoused

or where such live stock are pastured or ranged for the owner by any resident of the district.

All live stock shall be listed and assessed at any time in the taxing district in which they are found ranging or grazing during the months of May and June, inclusive, of each year. Provided, that if it shall be made to appear by duly authenticated certificate that said live stock, or any part thereof, has been listed and assessed in another state or territory, or taxing district in this state then the same shall be omitted.

Section 4. In all questions that may arise under this Act as to the proper place to list personal property, or where the same cannot be listed as stated in this Act, if between several places in the same county, the place for listing and assessing shall be determined and fixed by the Board of County Commissioners of the county, and when between different counties or places in different counties, then by the Tax Commission of the state, and when fixed in either case shall be as binding as if fixed by this Act.

Section 5. Whenever the County Auditor shall discover or receive credible information, or if he shall have reason to believe that any live stock has from any cause been omitted in whole or in part from assessment, as provided in this Act, then the County Auditor shall at once proceed to assess said live stock, notifying the owner or owners thereof, of his action, and giving the valuation set upon the same, provided that any information given to the County Auditor shall give the approximate number of head of live stock, the name or names of the owner or owners, the range or ranges upon which said live stock are grazing, or where found ranging. Providing further that no assessment shall be made by the County Auditor as herein provided until the person assessed shall have been allowed thirty days time from date of the notice given by the County Auditor in which to show cause why such assessment should not be made.

Section 6. Sections 6683 and 6684 of the Revised Code of 1919 are hereby repealed. All Acts and part of Acts in conflict herewith are hereby repealed.

Section 7. WHEREAS, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall take effect on and after its passage and approval.

Approved March 11th, 1919.

(S. B. 205)

AMENDING CHAPTER 55 LAWS OF SPECIAL SESSION 1918 RELATING TO MORATORIUM.

AN ACT Entitled, An Act to Amend Sections 1, 2, 3, 5 and 8 of Chapter 55 of the Laws of the Special Session of 1918, Relating to Moratorium and Other Relief for Those Engaged in War Relief, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That section 1 of chapter 55, laws of the special session of 1918 be and the same is hereby amended to read as follows:

Section 1. All soldiers and sailors and other persons in the military or naval service of the government of the United States, or who may hereafter enter such service during the present war, are hereby exempted while in such service and for a period of one year after the termination of said service or after death during such service, from payment of any bill of exchange or of any negotiable instrument or any other payment in pursuance of any contract; provided, that this section shall not apply to

the contract contained in any life insurance policy. Provided, further, that it shall be competent for any person who has been discharged from the military or naval service of the United States, and who would otherwise be entitled for a limited time to the protection of any of the provisions of this chapter, to exempt himself from the operation thereof by filing for record in the office of the clerk of courts in the county of his residence a duly acknowledged instrument in writing stating that he elects to be exempted from the provisions of that chapter, which shall operate to exempt and exclude such person and his property thenceforth from all the protective provisions of this chapter and he shall thereafter be subject to all the obligations and liabilities of citizens generally.

Section 2. That section 2 of chapter 55, laws of the special session of 1918 be and the same is hereby amended to read as follows:

Section 2. The execution or enforcement of any judgment, order or decree of any kind, and of any levy, right of entry or foreclosure, lien, power of sale, forfeiture or default, which may hereafter be entered or rendered or which may exist or arise during the continuance of the present war, shall be suspended or stayed until the termination of the service of any person liable or interested or until his death while in the service, and for a period of one year thereafter, provided such person is a soldier or sailor or actively engaged in the military or naval service of the Government of the United States.

Section 3. That section 3 of chapter 55, laws of the special session of 1918 be and the same is hereby amended to read as follows:

Section 3. No person, firm, association or corporation, or officer or board of this state, or of any city, town, township or county in this state, shall commence or prosecute any action or proceeding of any description whatsoever for the collection of any indebtedness, or the recovery of any real or personal property, or the cancellation of any contract, estate, equity or interest, or the foreclosure of any mortgage or lien, or for the determination of any estate, equity or interest in property, against any person engaged in the active military or naval service of the United States, for and during the full term of such service and a period of one year thereafter, except as hereinafter provided, and then only upon application to a court and upon such notice to such person engaged in the military or naval service of the United States as will most effectively protect, conserve and preserve his or her civil and property rights and as such court may by order prescribe, and any and all such actions or proceedings heretofore commenced and now pending in court or otherwise shall be and hereby are stayed for and during the period aforesaid, and no process, mesne or final, shall be issued or executed, or judgment or other determination entered, in any such actions or proceedings for the term aforesaid. The provisions of this act shall apply to the enforced collection of taxes now or hereafter assessed; Provided, however, that this act shall not be construed so as to permit the running of any statute of limitations, and in tolling the running of any statute of limitations the period of this stay shall not be counted, but, on the contrary, the civil and property rights of all parties shall remain in *statu quo*.

Section 4. That section 5 of chapter 55, laws of the special session of 1918 be and the same is hereby amended to read as follows:

Section 5. In all cases where, pursuant to any moratorium statute heretofore in force, the homestead or other property, not exceeding in value the sum of \$5,000, of any soldier, sailor or other person in the military or naval service of the United States has heretofore been exempted from taxation by the assessment officers and boards, such transaction shall be taken and held to be a payment in full of any tax upon such property which might otherwise have been assessed and collected, and no action or proceeding shall now or hereafter be taken for the collection of any such tax. Any and all taxes which have been or may be assessed, or

which have or may become due upon the homestead, or other property in lieu thereof to the actual value of \$5,000, of any soldier, sailor or other person in the military or naval service of the United States, during the term of such service, shall be paid in the following manner: The county auditor shall, under the supervision of the board of county commissioners, issue warrants to the county treasurer against the county general fund for the amount of such taxes, which warrants shall be paid as other county warrants are paid and the amount of the tax thus collected shall be distributed to the several funds to which it properly belongs; at the same time the county auditor shall charge to the state the amount of its share of the tax thus paid, and the county shall be entitled to credit upon the books of the state auditor for the state's share of the tax so remitted. It shall be the duty of the county auditor to ascertain what persons if any are entitled to the benefit of the provisions of this section.

Section 5. That section 8 of chapter 55, laws of the special session of 1918 be and the same is hereby amended to read as follows:

Section 8. In all cases where an application is made to any court that a pending action or proceeding be permitted to run its usual course or to final determination and execution, or for the commencement of any action or proceeding, it shall be the duty of such court to appoint an attorney at law of high standing and repute to investigate such application, and the court shall require the party or parties making such application to serve copies thereof and of any summons, complaint or other process, or pleading upon such attorney and it shall be the duty of such attorney to make a thorough investigation for the purpose of ascertaining in what manner the civil and property rights and interests of any person engaged in the military or naval service of the United States will be affected and to make a full and complete report of all findings and conclusions upon such investigation to the court in which said action or proceeding is pending or about to be commenced; and if after considering the report of such commission the court shall determine that such action or proceeding is one which should be permitted to be commenced or to proceed to final judgment or determination and execution as provided in section 4 of this chapter, then it shall be the duty of said attorney to appear in any court and defend all of the civil and property rights and interests of any such person engaged in the military or naval service of the United States, it being the true intent and meaning of this section that a large discretionary power shall be conferred upon all courts for the more effectual protection, preservation and conservation of all of the civil and property rights of any person engaged in the military or naval service of the United States, and to that end any court may and shall have full power and authority to make any order which shall be necessary to effectuate the purposes of this act. No attorney or counsellor at law appointed in any action or proceeding to make the investigation herein provided for, or to defend and protect the civil and property rights of any person engaged in the military or naval service of the United States, shall receive any compensation for his services. Provided, that such appointment of attorney need not be made by the court if the court be satisfied that the defendant is already represented by an attorney who can and will protect his rights and interests in such litigation to the fullest extent.

Section 6. Whereas the provisions contained in this act are for the protection of the property of the soldiers and sailors engaged in the world war are necessary for the immediate preservation of the government and its existing public institutions, therefore an emergency is hereby declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved March 12th, 1919.

RELATING TO BANK STOCK.

AN ACT Entitled, An Act to Amend Section 6696 and 6698 of the Revised Code of 1919, Relating to the Assessment and Taxation of Bank Stock.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6696 of the Revised Code of 1919, be, and the same is hereby amended to read as follows:

Section 6696. The stockholders of every bank located in this state, whether such bank has been organized under the banking laws of this state or of the United States, shall be assessed and taxed on the value of their shares of stock therein in the county, town, district, city or village where such bank or banking association is located, and not elsewhere, whether such stockholders reside in such places or not such shares shall be listed and assessed annually with regard to the ownership and the value thereof on the first day of May of each year. To aid the assessor in determining the value of such shares of stock, the accounting officer of every bank shall furnish a statement to the assessor, verified by oath, showing the amount and number of such shares of capital stock of such bank, the amount of its surplus or reserve fund, and the amount of the legal investments in real estate, which real estate shall be assessed and taxed as other real estate is assessed and taxed. The assessor shall deduct the amount of such investments in real estate from the aggregate amount of such capital and surplus fund, and the remainder shall be taken as a basis for the valuation of such shares of stock in the hands of the stockholders, subject to the provisions of law requiring all property to be assessed at its true and full value. The shares of capital stock of national banks not located in this state, held in this state, shall not be required to be listed under this Act.

Section 2. That Section 6698 of the Revised Code of 1919, be, and the same is hereby amended to read as follows:

Section 6698. To secure the payment of taxes on bank stock or banking capital it shall be the duty of every bank, or managing officer thereof, to retain so much of any dividend or dividends belonging to such stockholders or owners as shall be necessary to pay any taxes levied upon their shares of stock or interests, respectively, until it shall be made to appear to such bank or its officers that such taxes have been paid; and any officer or any such bank who shall pay over or authorize the paying over of any such dividend or a portion thereof, contrary to the provisions of this section, shall thereby become liable for such tax, and if such tax shall not be paid, the county treasurer where such bank is located shall sell such shares or interest to pay the same like other personal property; and in case of sale, the provisions of law in regard to the transfer of stock, when sold on execution, shall apply to such sale.

Section 3. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall take effect on and after its passage and approval.

Approved March 14, 1919.

(H. B. 12)

RELATING TO ASSESSORS

AN ACT Entitled, An Act to Amend Sections 5982 and 5984 of the South Dakota Revised Code of 1919 Relating to Assessors, Fixing Their Compensation and Authorizing the Employment of Deputies, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5982 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 5982. Salary. By whom paid. Each county and township assessor shall receive not to exceed \$5.00 per day for the time actually employed in making and completing the assessment; provided, that in any civil township which does not exceed in area one congressional township, the township assessor shall not receive to exceed \$150.00 per annum. In counties fully organized into civil townships the compensation of township assessors shall be paid by the township, and the amount of such compensation shall be determined in the discretion of the township supervisors. In counties in which any territory is not organized into civil townships, both the county and township assessors shall be paid by the county, and the amount of their compensation shall be determined in the discretion of the county commissioners.

Section 2. That Section 5984 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 5984. Appoint deputies. The county assessor is authorized to appoint deputies but the county commissioners shall by resolution fix the number of deputies to be appointed, and the compensation they shall receive, which shall in no case exceed the compensation of the county assessor.

Section 3. Whereas, the present law contains no adequate provisions for salary and deputies of county assessors, this act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved February 21, 1919.

(H. B. 191)

RELATING TO AGRICULTURAL STATISTICS.

AN ACT Entitled, An Act to Provide for Collecting Annually of Agricultural and Live Stock Statistics by Assessors, and Pertaining to Duties of Township, Town and City Review Boards, County Auditors and Tax Commission Relative Thereto, and to Provide for an Appropriation to Carry the Same into Effect, and to Prescribe Penalties for Refusal to List, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. It is hereby made the duty of all assessors within this state at the time of making the annual assessment of property for taxation, to furnish on blanks provided by the State Tax Commission, with proper instructions printed thereon, the following statistics regarding Agriculture and Live Stock in his assessment district for the current year, and said assessor shall receive the same per diem for the extra time necessarily taken to gather such statistics as for other duties.

First: Name and post office address of farmer (owner or operator).
Second: Total acres in farm or property.

Third: Acres of each crop sown or planted or intended to be sown or planted.

Fourth: Acres of tillable land used exclusively for pasturage.

Fifth: Number of growing fruit trees of bearing age.

Sixth: Number of cows used for dairy purposes.

Seventh: Such other statistics relating to agriculture and live stock as may be required by the State Tax Commission from year to year.

Section 2. Each assessor shall gather the statistics mentioned in Section 1 of this Act by a personal interview with the owner or operator, or with his manager or agent, if any can be found, if not, then he shall obtain such information from the most reliable source.

Section 3. The assessor of each organized township, incorporated town or city shall, not later than the fourth Monday in June of each year, turn over to the Review Board of his taxing district for inspection, all blanks or books containing the statistics required to be furnished by this Act, and the County Assessor and his deputies shall make such return to the County Auditor not later than July first each year.

Section 4. Each Township, Town or City Review Board shall, as their first duty upon qualifying as such Board, examine the returns required to be made by this Act and if the same be found to be incorrect or incomplete, they shall at once summon the assessor to appear and correct or complete such list, provided, however, that such list must be transmitted to the County Auditor on or before July first, and no assessor shall receive any remuneration for his services until he has submitted to the Review Board or County Auditor a complete and correct list of statistics provided for in this Act.

Section 5. If any person required by the assessor to give information provided for in Section 1 of this Act, shall be in possession of the information required and shall upon being interrogated refuse to answer the interrogatories contained in said blank, shall be guilty of a misdemeanor and he shall be subject to a fine of not less than Twenty-five Dollars (\$25.00) nor more than Fifty Dollars (\$50.00), which may be recovered by an action in the name of the State, upon information filed by States Attorney before any court of competent jurisdiction, together with the costs of such action.

Section 6. As soon as all reports are received by the County Auditor, he shall at once forward the same to the Tax Commission. Immediately on receipt of all statistics from the County Auditor the Tax Commission shall proceed to tabulate the statistics from the several counties, and on completion of the tabulation shall have same printed and mail a copy of same to each newspaper in South Dakota.

Section 7. There is hereby appropriated an annual amount of Nine Hundred Dollars (\$900.00) from any money in the State Treasury not otherwise appropriated, to provide for printing, supplies, postage, express and clerk hire, to carry out the provisions of this Act. Said money to be paid upon warrants of the State Auditor to be issued upon vouchers to be approved by the Tax Commission.

Section 8. Whereas, this Act is necessary for the support of the state government and its existing institutions and there is now no provision of law for securing the statistics provided for in this Act, an emergency is hereby declared to exist, and this Act shall be in force and effect from and after its passage and approval.

Approved February 27, 1919

RELATING TO ASSESSMENT AND TAXATION OF MONEYS AND CREDITS.

AN ACT Entitled, An Act to Provide for the Classification of Moneys and Credits, and Defining the Same, Providing the Manner in Which Moneys and Credits Shall be Assessed and Fixing the Rate of Taxation Thereon for all Purposes, Providing for the Extending of the Tax on Moneys and Credits and the Distribution of the Tax, Prescribing Penalties and Repealing Certain Existing Laws in Contravention Thereto, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Moneys and credits as hereinafter defined shall constitute a separate class of property for the purpose of assessment and taxation. Nothing herein contained shall in any manner apply to the assessment and taxation of real estate mortgages, as the same are defined, classified and otherwise taxed by the provisions of law providing for a registry tax on real estate mortgages.

Section 2. The word "money" or "moneys" shall be held to mean gold and silver coin, gold certificates, silver certificates, United States notes, (greenbacks), National bank notes, Federal Reserve notes and miscellaneous currency in circulation.

To persons residing in this state the term "credit" shall be held to mean and include every claim and demand for money or other valuable things, and every annuity or sum of money received at stated periods due, or to become due, whether within or without this state, due the person to be taxed, and all other debts due or to become due. The word importing the singular number only may be extended to and embrace the plural number and every word importing the plural may be applied and limited to the singular number; and every word importing the masculine gender only may be extended and applied to females as well as males; where the word "oath" is used it may be held to mean affirmation; and the word "swear" may be held to mean affirm; the word "town" or "district" wherever used shall be construed to mean township, village, city or ward, as the case may be. The term "true and full cash value" wherever used shall be construed to mean the usual cash selling price at the place where the property to which the term is applied shall be at the time of the assessment. The term "person" wherever used shall be construed to include firm, company, association or corporation.

Section 3. Money and credits as the same are defined and construed to mean in Section 2 shall hereafter be subject to an annual tax of three mills on each dollar and no more of the true and cash value thereof, which shall be in lieu of all other taxes. But nothing herein shall apply to money or credits belonging to banks and trust companies situated in this state, which are otherwise assessed and taxed.

Section 4. Money and credits subject to taxation shall be listed and assessed every year with reference to their value on the first day of May next preceding the assessment.

Section 5. Every person of full age and sound mind, being a resident of this state, shall list his money and credits, and also in the name of his principal the money and credits of his principal, which is controlled by such person as the agent or attorney of such principal. The money and credits of a minor child shall be listed by his guardian or by the person having such money and credits in charge. The money and credits of a person for whose benefit it is held in trust by the trustee of the estate of a deceased person shall be listed by the executor or administrator. The money and credits of corporations in the hands of receivers shall be listed by such receivers. The money and credits of a firm, company, association, or corporation (other than banking as heretofore expressed) shall be listed by a partner, agent, accounting officer or cashier thereof.

Section 6. Money and credits shall be listed and assessed in the assessment district where the owner or agent resides; of corporations (except banking as heretofore expressed), in the assessment district where the principal office or place of business is located in this state. If there be no principal office or place of business in this state, then where any such corporation transacts business in this state.

Section 7. Every person required herein shall make and deliver to the assessor a statement verified by oath of all the money and credits in his possession or under his control, and which by the provisions hereof he is required to list for taxation, either as owner or holder thereof, or as a guardian, parent, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor, and it shall be the duty of assessors to require all such persons to sign, date and deliver to them such sworn statement. If the person did not own or have under his control on the first day of May for the taxing year any property of the kind specified in this Act, he shall make oath to that effect on the listing blank and return and deliver to the assessor the said blank, duly verified.

Section 8. The Tax Commission of this state shall prepare and distribute through the county auditors to the assessors a form for the listing and returns which the taxpayers are required to make, and the form shall be printed on a separate sheet, and shall be entirely distinct from the forms prepared for the listing and returns of other classes of property. The form herein required to be made shall show, each under a separate heading, the total amount in each of the following classes:

1. Money subject to check and on deposit in banks, trust companies, or similar financial institutions, wherever situate.
2. Money on deposit in banks, trust companies, postal and other savings banks, or similar financial institutions, wherever the same are situate, and which is represented by certificate of deposit, cashier's checks, or similar instruments.
3. Money, other than above specified, on hand or under control of the owner or his agent, whether the same is held in this state or elsewhere.
4. Promissory notes, bills of exchange, due bills, cream checks, and similar evidences of indebtedness.
5. Bonds, except municipal and United States bonds and such as are secured by real estate mortgages recorded in this state.
6. Real estate mortgages upon lands situate outside of this state and amount secured thereby.
7. Real estate mortgages on lands in this state which have not been recorded and the amount secured thereby.
8. Chattel mortgages upon personal property in this state or elsewhere, and the amount secured thereby.
9. Judgments in this state or elsewhere.
10. Book accounts.
11. Contracts for sale of real estate outside of this state.
12. Contracts for sale of real estate in this state which have not been recorded.
13. Annuities, royalties, and all sums of money receivable at stated periods.
14. All claims and demands for money or other valuable thing not above enumerated.
15. Shares of stock in corporations the property of which is not assessed or taxed in this state.

The Tax Commission may include in the form such additional classes as they may deem desirable. It is expressly provided that the amounts shown under each item shall be the total amount only of property owned of the class named and shall not show the detailed items which make up each class.

The county auditors shall deliver to the assessors such forms and the assessors shall use the same, and no other forms shall be used for listing moneys and credits. Such list shall be open to the inspection of the assessors, county auditors, their deputies and clerks, the board of review, the county board of equalization and the Tax Commission and its secretary and clerks, but the details of the lists made by the taxpayers shall be disclosed to no other persons except by order of court, and any assessor or other person who shall disclose such details shall be liable to a fine of not less than one hundred dollars nor more than five hundred dollars. The lists shall be delivered by the assessor to the county auditor and by him preserved.

Section 9. The assessor shall list money and credits in a supplement to the regular assessment books in such form of supplement as the Tax Commission may prescribe, and which the county auditors are required to provide for assessors, on or before the last Saturday of April each year. The supplement shall be so prepared as shall show the total amount of money and credits assessed to each taxpayer under the provisions of this Act, and shall not disclose further details of his assessment. It shall contain also a summary showing the number of persons assessed for such property, and the total amount of moneys and credits taxable under the provisions herein. The county auditor when compiling the returns shall include under a separate heading the aggregate assessment in each district of moneys and credits assessed under the provisions herein.

Section 10. Money in possession shall be listed and entered at the full amount; every credit for any sum certain payable either in money, property of any kind, labor or services, shall be valued at the actual value of the same so payable, if for any specific article or specific number or quantity of any article of property or for any certain amount of labor, or for services of any kind, it shall be valued at the current price of such property, or for such labor or services at the place where payable. The listing must be made by the assessor at any time during the months of May and June of each year. Provided, if any money and credits are listed or assessed on or after the last day of June, and before the return of the assessor's books, the same shall be as legal and binding as if listed and assessed before that time.

Section 11. The assessor shall require each person to list his money and credits in accordance with the provisions hereof and every person so required shall enter a true and correct statement of such money and credits in the form prescribed, which statement shall be signed and sworn to by the person listing the same and delivered to the assessor who shall thereupon assess the value of such money and credits and enter the same on his books.

Section 12. If any person required by this Act to list money and credits be sick or absent the assessor shall leave at the office or usual place of business or residence of such person a written or printed notice requiring such person to make out and leave at the place named by such assessor on or before some convenient date named therein the statement or list required, and the date of leaving such notice. If the person whose duty it is to list money and credits has been absent or unable by sickness to list the same, the assessor shall enter the name of such person in an appropriate column the words "absent" or "sick" and the money and credits of such person shall be assessed by the assessor at such amount as he believes to be the true value thereof, and for that purpose only he shall have the right to inspect and examine the records of all public offices, without charge.

Section 13. In every case where any person shall refuse to make out and deliver to the assessor the statement required, or shall refuse

to take and subscribe to any of the oaths or affirmations required, the assessor shall proceed to ascertain the valuation of such money and credits, and for that purpose only he may examine on oath any person or persons whom he may suppose to have knowledge thereof. The assessor may also personally inspect and examine the records of all public offices in this state, without charge. Such assessor shall make a note of such refusal in a column opposite the person's name, and the county auditor shall add to such valuation when returned by the assessor fifty per centum, on the valuation so returned as a penalty.

Section 14. If any person required by the assessor to give information as provided in the last preceding section, or in any case when interrogated by the assessor shall refuse to be sworn or affirmed, or if having been sworn or affirmed, he shall refuse to answer any question touching the subject such person upon conviction thereof shall be fined in a sum not more than five hundred dollars nor less than ten dollars.

Section 15. If an assessor shall fail or neglect to administer to any person by him assessed any oath required to be administered, or shall receive any list or statement required by Section 7 of this Act without the same being properly verified as therein provided, he shall forfeit and pay to the state of South Dakota, for the use of the school fund the sum of twenty dollars for each case of omission and neglect, which may be recovered by an action in the name of the state of South Dakota on the relation of the states attorney.

Section 16. If any person shall give false or fraudulent list or statement, or shall wilfully fail or refuse to deliver to the assessor, a list of moneys and credits which he is required to list or shall temporarily convert any part of his money and credits into property not taxable for the fraudulent purpose of preventing any property from being listed and of evading the payment of taxes thereon, he shall be liable to a penalty of not less than fifty dollars nor more than two thousand dollars, to be recovered in a proper form of action in the name of the State of South Dakota, on the relation of the States Attorney, the assessor shall forthwith notify the States Attorney of his county of such delinquency or offense and he shall prosecute such offender to final judgment and execution, and such fine when collected shall be paid to the county treasurer for the benefit of the public schools of the State.

Section 17. The assessment shall be reviewed and equalized the same as the assessment of other personal property is reviewed and equalized.

Section 18. The county auditor of each county shall compute the taxes each year against each person assessed at the rate herein provided, on a tax list the form of which shall be approved by the Executive Accountant. The tax levied hereunder shall be collected by the county treasurer or sheriff the same as other personal property taxes are collected.

Section 19. All taxes paid to the county treasurer under the provisions of this Act shall be apportioned as follows:

One-fourth to the state of South Dakota for ordinary state purposes, one-half to the county general fund, and one-fourth to the school district in which the property is assessed and taxed.

Section 20. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 21. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist and this Act shall take effect on and after its passage and approval.

Approved March 5, 1919.

UNIVERSITY OF ILLINOIS-URBANA



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